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JAN. 30, 1943

FOOD DISTRIBUTION ADMINISTRATION

UNITED STATES DEPARTMENT OF AGRICULTURE

[Food Distribution Order 16]

PART 1407—DRIED FRUIT

RESTRICTION ON PURCHASE, ACCEPTANCE AND DELIVERY

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to insure an adequate supply and efficient distribution of dried fruit to meet war and civilian needs, *It is hereby ordered*, As follows:

§ 1407.1 *Restrictions on the purchase, delivery and use of dried fruit*—(a) *Definitions*. When used in this order unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) "Dried fruit" means the whole or fleshy portions of apples, apricots, peaches, pears, prunes, or grapes (raisins) preserved by the removal therefrom of part of the natural moisture, and, unless otherwise indicated, shall include such fruit in natural or processed condition.

(2) "Packer" means any person engaged in the business of processing and packaging dried fruit.

(3) "Processing" means grading, sizing, stemming, seeding, or treating dried fruit by the use of hot water, steam, chemicals or compressed or hot air; or cutting fresh apples acquired for the production of dried apples.

(4) "Government agency" means the Army of the United States, the Food Distribution Administration, and any other officer, board, agency, commission, or government-owned or government-controlled corporation of the United States specifically designated by the Director.

(5) "Director" means the Director of Food Distribution, United States Department of Agriculture or any employee of the United States Department of Agriculture designated by such Director.

(6) "Person" means any individual, partnership, corporation, association or other business entity.

(b) *Restrictions on packers*. (1) Each packer shall, without regard to previously existing contracts, set aside to be delivered for the requirements of government agencies, any dried fruit, and any fresh fruit acquired for the production of dried fruit, which were in his possession, under his control or under contract on August 10, 1942, or were acquired by him within one year thereafter. All such fruit so set aside may be delivered to the Army of the United States or the Food Distribution Administration without specific allocation; to any other government

agency if specifically allocated to such agency, and to any private purchaser if released. Such fruit shall not be processed and packed without instructions which may be given by the Director, or by the Army of the United States, if such fruit is to be purchased by either of such agencies; or, if such fruit is specifically allocated to any other agency, instructions may be given by the agency to which it is allocated. The Director may issue specifications at any time as to processing, packing, labeling, boxing and strapping.

(2) Each packer shall mail to or file with the Food Distribution Administration on the fifteenth and last day of each month reports on form PD-625 series.

(3) If he determines that any dried fruit set aside pursuant to this order is not required for government agencies, the Director may release such dried fruit at any time by notice directed to the packer. So far as consistent with the defense requirements of the United States, such releases shall be of such a character as to allow to all packers, for sale to purchasers other than government agencies, substantially equal proportions of their packs of each fruit: *Provided, however*, That the Director may, in determining any amounts to be so released to any packer, take into account any quantities of dried fruit produced from the 1942 crop and sold and actually shipped by him before August 10, 1942.

(4) Any quantities of dried fruit allocated or released shall, unless otherwise specified, be withdrawn by the packer from the earliest reported stocks of such dried fruit.

(c) *Records and reports*. Every person subject to this order shall maintain for not less than two years accurate and complete records concerning inventories, purchases, production and sales and shall maintain such other records for such periods of time and shall execute and file such reports upon such forms and submit such information, as the Director may from time to time request or direct, and within such times as he may prescribe.

(d) *Audits and inspections*. Every person subject to this order shall, upon request, permit inspections, at all reasonable times, of his stocks of dried fruit and premises used in his business and all of his books, records and accounts shall upon request be submitted to audit and inspection by the Director.

(e) *Petition for relief from hardship*. Any person affected by this order who

considers that compliance herewith would work an exceptional and unreasonable hardship on him may petition in writing (in triplicate) for relief to the Director, setting forth all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate and such action shall be final.

(f) *Violations*. Any person who willfully violates any provision of this order or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this order or willfully conceals a material fact concerning a matter within the jurisdiction of any Department or agency of the United States may be prohibited from receiving or making further deliveries of any material subject to allocation and such further action may be taken against him as the Director deems appropriate, including recommendations for prosecution under section 35a of the Criminal Code (18 U.S.C. 1940 ed. 80), under paragraph 5 of section 301 of Title III of the Second War Powers Act, and under any and all other applicable laws.

(g) *Communications to Department of Agriculture*. All reports required to be filed hereunder and all communications concerning this Order shall, unless otherwise directed, be addressed to: Director of Food Distribution, United States Department of Agriculture; Washington, D. C. Ref: FD-16.

(h) *Conservation Order M-205, superseded*. This order supersedes in all respects Conservation Order M-205,¹ as amended,² of the War Production Board except that as to violations of said order or rights accrued, liabilities incurred, or appeals taken under said order prior to the effective date hereof said Conservation Order M-205, as amended, shall be deemed in full force and effect for the purpose of sustaining any proper suit, action or other proceeding with respect to any such violation, right or liability. Any appeal pending under said Conservation Order M-205, as amended, shall be considered under paragraph (e) hereof.

(i) *Effective date*. This order shall be effective as of the date of its issuance.

(E.O. 9280, 7 F.R. 10179)

Issued this 30th day of January 1943.

[SEAL]

CLAUDE R. WICKARD,
Secretary of Agriculture.

¹ 7 F.R. 6213.

² 7 F.R. 9306.

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Cap. 1

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U. S. DEPARTMENT OF AGRICULTURE

FDO 16

AMDT. 1
AUGUST 7, 1943

WAR FOOD ADMINISTRATION

X [FDO 16, Amdt. 1]

PART 1407—DRIED FRUIT

RESTRICTIONS ON PURCHASE, ACCEPTANCE, AND DELIVERY OF DRIED FRUIT

Food Distribution Order No. 16 (8 F.R. 1705), issued by the Secretary of Agriculture on January 30, 1943, is hereby amended to read as follows:

§ 1407.1 *Restrictions on the purchase, delivery, and use of dried fruit—(a) Definitions.* When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "dried fruit" means the whole or fleshy portions of apples, apricots, peaches, pears, prunes, and the Thompson seedless, Muscat, Sultana, and Zante currant varieties of grapes preserved by the removal therefrom of part of the natural moisture and, unless otherwise indicated, shall include such fruit in its natural or processed condition.

(2) The term "packer" means any person engaged in the business of processing and packaging dried fruit or having dried fruit processed and packaged for his account.

(3) The term "producer" means any person engaged in the production of dried fruits; and such term includes, but is not limited to, any owner of fresh fruit at the time such fruit is dried.

(4) The term "processing" means grading, sizing, stemming, seeding, or treating dried fruit by the use of water, steam, chemicals, or compressed or hot air; or cutting fresh apples for the production of dried apples.

(5) The term "governmental agency" means (i) the Armed Services of the United States; (ii) the Food Distribution Administration, War Food Administration (including, but not restricted to, the Federal Surplus Commodities Corporation); (iii) the War Shipping Administration; (iv) the Veterans' Administration; and (v) any other instrumentality or agency designated by the War Food Administrator. The term "governmental agency" also includes any contract school or ship operator, as defined in Food Distribution Regulation 2 (8 F.R. 7523), purchasing restricted fruit in accordance with said Food Distribution Regulation 2.

(6) The term "Armed Services of the United States" means the Army, the Navy, the Marine Corps, or the Coast Guard of the United States.

(7) The term "Director" means the Director of Food Distribution, War Food Administration.

(8) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(b) *Restrictions on packers and producers.* (1) No producer may sell or deliver dried fruit except to (i) the Food Distribution Administration (including but not restricted to the Federal Surplus Commodities Corporation); (ii) any person or agency designated by the Director; or (iii) a packer.

(2) Each packer shall, without regard to existing contracts, set aside and hold for delivery to a governmental agency, all dried fruit, and all fresh fruit acquired for use in the production of dried fruit, which was in his possession, under his control, or under contract to him on August 10, 1942, or was acquired by such packer within a period of two calendar years thereafter. All fruit so set aside shall not be processed or packed without instructions furnished by the Director, or any governmental agency, if such fruit is to be purchased by a governmental agency. The Director or any governmental agency may issue specifications at any time as to the processing, packing, labeling, boxing, and strapping of the fruit to be acquired by each such governmental agency.

(3) Each packer shall mail to, or file with, the Director on the 15th and last days of each month reports on Form FDO series. (This reporting requirement has been approved by the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.)

(4) If the Director determines that any dried fruit set aside pursuant to this order is not required for a governmental agency, the Director may release such dried fruit at any time by notice directed to the packer. So far as such action is consistent with the defense requirements of the United States, such releases shall be of such a character as to allow all packers substantially equal proportions of their packs of each fruit for sale to purchasers other than governmental agencies.

(5) Any quantities of dried fruit allocated or released shall, unless otherwise specified, be withdrawn by the packer from the earliest reported stocks of such dried fruit.

(c) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of dried fruit of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(d) *Records and reports.* The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth in such petition all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, which action shall be final.

(f) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using dried fruit, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(g) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(h) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Director of Food Distribution, War Food Administration, United States Department of Agriculture, Washington 25, D. C., Ref. FDO 16.

(i) *Conservation Order No. M-205, as amended, superseded.* This order supersedes in all respects Conservation Order

No. M-205, as amended, issued by the War Production Board on November 11, 1942, except that, as to violations of said order, or rights accrued, liabilities incurred, or appeals taken under said order, said Conservation Order No. M-205, as amended, shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability. Any appeal pending

under said Conservation Order No. M-205, as amended, shall be considered under (e) hereof.

(j) *Effective date.* This order shall become effective 12:01 a. m., e. w. t., August 10, 1943.

(E.O. 9280, 8 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 7th day of August 1943.

MARVIN JONES,
War Food Administrator.

Press Release Immediate:
Tuesday, August 10, 1943.

Dried fruit packers must set aside for Government procurement their entire holdings and acquisitions of 7 fruits during the 1943-44 season under a continuation of last year's program, the War Food Administration said today. The dried fruits are raisins, prunes, apples, apricots, peaches, pears, and currants.

Continuation of the set-aside provisions was effected through extension of Food Distribution Order 16 amended to include dried currants and tighten other provisions.

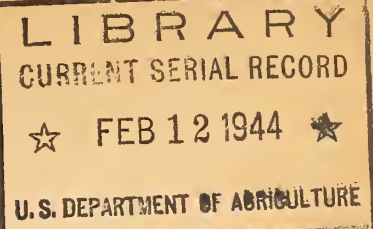
The term "packer" includes any person who has dried fruits processed for his account, although he may not actually be engaged in the business of processing. Procedures also are prohibited from selling these dried fruits to pur-

chasers other than the Food Distribution Administration or a packer.

All of these dried fruits, except currants, were reserved in packers' hands last year to assure the meeting of war requirements for these concentrated foods. Civilian supplies will be provided this year, as last, through the release of quantities into regular trade channels.

Last year, more than 234,000 tons of dried prunes and raisins were released for civilian consumption.

FOOD DISTRIBUTION ORDER NO. 16
AS AMENDED AUGUST 7, 1943



Questions and Answers

1. Q.- What is the purpose of the order?
A.- The purpose of the order is to provide an adequate supply of dried apples, apricots, peaches, pears, prunes and the Thompson seedless, Muscat, Sultana and Zante currant varieties of grapes for meeting our war requirements.
2. Q.- How does the order affect producers of these fruits?
A.- The order prohibits a producer from selling or delivering fruits named in the order to anyone except the FDA, a person or agency designated by the Director or a packer.
3. Q.- What is meant by the term "dried fruit"?
A.- As referred to in the order, "dried fruit" means the whole or fleshy portion of the fruit preserved by the removal of the natural moisture and, unless otherwise indicated, shall include such fruit in its natural or processed condition.
4. Q.- What is meant by the term "processing"?
A.- The term "processing" means grading, sizing, stemming, seeding, or treating dried fruit by the use of water, steam, chemicals, or compressed or hot air; or cutting fresh apples for drying.
5. Q.- What is meant by the term "packer"?
A.- The term "packer" means any person engaged in the business of processing and packaging dried fruit or having dried fruit processed and packaged for his account.
6. Q.- Does the order require that any dried fruit be set aside for government use?
A.- Yes, each packer must set aside and hold for delivery to a governmental agency, all dried fruit, and all fresh fruit acquired for use in the production of dried fruit, which was in his possession, under his control, or under contract to him on August 10, 1942, or acquired by such packer within a period of two calendar years thereafter.
7. Q.- May any of the specified dried fruits be sold for civilian consumption?
A.- Yes, if the Director determines that any dried fruit set aside pursuant to the order is not required for a governmental agency.
8. Q.- May a person seek relief from hardship caused by the order?
A.- Yes, any person, who considers the order works an unreasonable and exceptional hardship on him, may file a petition with the Director setting forth the facts and stating the nature of the relief sought.

